



NCN: [2023] UKFTT 00020 (GRC)

Case Reference: EA/ 2022/0235

**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
INFORMATION RIGHTS**

Heard: by determination on the papers

Heard on: 9 January 2023

Decision given on: 9 January 2023

Before:
Judge Alison McKenna

ANDREW ANDERSON

Appellant

- and –

THE INFORMATION COMMISSIONER

Respondent

DECISION

This appeal is struck out under rule 8 (3) (c) as having no reasonable prospect of success

REASONS

1. The Respondent's Strike Out Application dated 3 October 2022 is allowed.
2. The Appellant made an information request about the ingredients in covid 19 vaccines. The Information Commissioner published a Decision Notice on 10 August 2022 which found that the Medicines and Healthcare Products Regulatory Agency ('MHRA') had confirmed and provided all the recorded information it holds falling within the scope of the Appellant's request and had complied with s. 1(1) (a) and (b) of the Freedom of Information Act 2000 ('FOIA'). The Appellant filed a Notice of Appeal on 28 August 2022.
3. On 3 October 2022, the Information Commissioner, in filing its Response to the appeal, applied for a strike out under rule 8 (3)(c) of the Tribunal's rules on the basis that the appeal had no reasonable prospects of success.
4. The Appellant's Grounds of Appeal are (i) that the MHRA might be hiding information or that it might have been lied to by pharmaceutical companies; and (ii) that there were flaws in the Information Commissioner's investigation.
5. The Appellant was invited to make submissions in response to a proposed strike out, as required by rule 8 (4). On 11 October 2022 the Appellant reiterated his grounds of appeal and submitted that the MHRA is unaware that illegal ingredients are included in the vaccines.
6. I have considered the Upper Tribunal's decision in *HMRC v Fairford Group (in liquidation) and Fairford Partnership Limited (in liquidation)* [2014] UKUT 0329 (TCC), in which it is stated at [41] that

...an application to strike out in the FTT under rule 8 (3) (c) should be considered in a similar way to an application under CPR 3.4 in civil proceedings (whilst recognising that there is no equivalent jurisdiction in the First-tier to summary judgement under Part 24). The Tribunal must consider whether there is a realistic, as opposed to a fanciful (in the sense of it being entirely without substance) prospect of succeeding on the issue at a full hearing...The Tribunal must avoid conducting a "mini-trial". As Lord Hope observed in Three Rivers the strike out procedure is to deal with cases that are not fit for a full hearing at all.
7. Applying this approach, I have considered both parties' representations and concluded that this is a case which may be described as 'not fit for a full hearing'. This is because the role of this Tribunal under s. 57 FOIA is to decide whether there is an error of law or inappropriate exercise of discretion in the Information Commissioner's Decision Notice. The grounds of appeal do not engage with that jurisdiction but challenge the regulatory behaviour of both the MHRA and the ICO. Those are not matters within the jurisdiction of this Tribunal, which must focus on the Decision Notice.

8. It does not therefore seem to me that any Tribunal properly directed could allow this appeal. In all the circumstances, I have concluded that this appeal should be struck out as having no reasonable prospects of success. I direct accordingly.

(Signed)

Dated: 9 January 2023

Judge Alison McKenna

© CROWN COPYRIGHT 2023

